

DVHA Routing Form

Revision Date 5/1/12

Type of Agreement: Contract Agreement #: 22886 Form of Agreement: New Amendment #: _____

Name of Recipient: Stone Environmental, Inc. Vendor #: 7237

Program Manager : Lisa Dulskey Watkins Phone #: 802-872-7535

Agreement Manager: Jason Elledge Phone #: 802-879-5946

Brief Explanation of Agreement: Development of a prototype web-based database application for managing the Blueprint practice and provider data

Start Date: September 15, 2012 End Date: September 14, 2013 Maximum Amount: \$14,950.00

Amendments Only: _____ Maximum Prior Amount: _____ Percentage of Change: _____

Bid Process (Contracts Only): ☐ Standard ☐ Simplified ☐ Sole Source ☐ Statutory ☐ Master Contract SOW

Funding Source

<u>Global Commitment 93.778</u>	<u>\$14,950.00</u>	

Contents of Attached Packet

- ☒ AA-14 ☒ Attachments A, B, C & F ☐ Attachment G - Academic Research
☐ Sole Source Memo ☒ Attachment D - Modifications to C & F ☐ MOU
☒ Qualitative/Justification Memo ☒ Attachment E - Business Associate Agreement ☐ Other:

Reviewer	Reviewer Initials	Date In	Date Out
DVHA Grant & Contract Administrator	<u>Kate Jones</u>		
DVHA BO	<u>Jill Gould</u>	<u>8/10/12</u>	<u>8/14/12</u>
DVHA Commissioner or Designee	<u>Mark Larson, Commissioner</u>	<u>8/17/12</u>	<u>8/17/12</u>
AHS Attorney General	<u>Seth Steinzor, AAG</u>		<u>8/29/12</u>
Following Approvals for Contracts Only:			
AHS CIO	<u>Angela Rouelle</u> <u>Darin Brail</u>	<u>9/4/12</u>	<u>9/4/12</u>
AHS Central Office	<u>Martha Giglio</u>		<u>8/31/12</u>
AHS Secretary	<u>Christine Oliver, Dept Sec</u>		

Vision Account Codes: 20405-3410010000-41628 4/10/12 100% SFY '13

☐ FFATA Entry ☐ Grant Tracking Module Vision PO #: 3906 Initials & Date: mk 9/12/12 Approval & B/C: day ref 10/12

Note: All sections are required. Incomplete forms will be returned to department.

I. CONTRACT INFORMATION:

Agency/Department: AHS/ DVHA Contract #: 22886 Amendment #:
 Vendor Name: Stone Environmental, Inc. VISION Vendor No: 7237
 Vendor Address: 535 Stone Cutters Way, Montpelier, VT 05602
 Starting Date: 9/15/2012 Ending Date: 9/14/2013 Amendment Date:
 Summary of agreement or amendment: Development of a prototype web-based database application for managing the Blueprint practice and provider data.

II. FINANCIAL INFORMATION

Maximum Payable: \$14,950.00 Prior Maximum: \$ Prior Contract # (If Renewal):
 Current Amendment: \$ Cumulative amendments: \$ % Cumulative Change: %
 Business Unit(s): 3410; ; - [notes:] VISION Account(s): 507600;

III. PERFORMANCE INFORMATIONDoes this Agreement include Performance Measures tied to Outcomes and/or financial reward/penalties? ☒ Yes ☐ No

Estimated Funding Split: G-Fund % S-Fund % F-Fund % GC-Fund 100.00 % Other %

III. PUBLIC COMPETITION

The agency has taken reasonable steps to control the price of the contract or procurement grant and to allow qualified organizations to compete for the work authorized by this contract. The agency has done this through:

☐ Standard bid or RFP ☐ Simplified Bid ☒ Sole Sourced ☐ Qualification Based Selection ☐ Statutory

IV. TYPE OF AGREEMENT & PERFORMANCE INFORMATION

Check all that apply: ☐ Service ☒ Personal Service ☐ Architect/Engineer ☐ Construction ☐ Marketing
☒ Information Technology ☐ Other, describe:

V. SUITABILITY FOR CONTRACT FOR SERVICE

☒ Yes ☐ No ☐ n/a If this is a Personal Service contract, does this agreement meet all 3 parts of the "ABC" definition of independent contractor? (See Bulletin 3.5) If NO, then contractor must be paid through Payroll

VI. CONTRACTING PLAN APPLICABLE:Are one or more contract or terms & conditions provisions waived under a pre-approved Contracting Plan? ☐ Yes ☒ No**VII. CONFLICT OF INTEREST**

By signing below, I certify that no person able to control or influence award of this contract had a pecuniary interest in its award or performance, either personally or through a member of his or her household, family, or business.

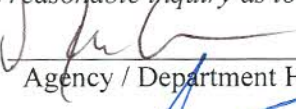

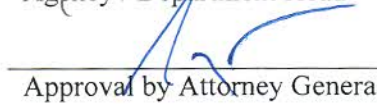
☐ Yes ☒ No Is there an "appearance" of a conflict of interest so that a reasonable person may conclude that this party was selected for improper reasons: (If yes, explain)

VIII. PRIOR APPROVALS REQUIRED OR REQUESTED

☒ Yes ☐ No Agreement must be approved by the Attorney General under 3 VSA §311(a)(10) (personal service)
☒ Yes ☐ No I request the Attorney General review this agreement as to form
 No, already performed by in-house AAG or counsel: _____ (initial)
☐ Yes ☒ No Agreement must be approved by the Comm. of DII; for IT hardware, software or services and Telecommunications over \$100,000
☐ Yes ☒ No Agreement must be approved by the CMO; for Marketing services over \$15,000
☐ Yes ☒ No Agreement must be approved by Comm. Human Resources (privatization and retiree contracts)
☐ Yes ☒ No Agreement must be approved by the Secretary of Administration

IX. AGENCY/DEPARTMENT HEAD CERTIFICATION; APPROVAL

I have made reasonable inquiry as to the accuracy of the above information:

8/17/12  Date Agency / Department Head
 9/4/12  Date Agency Secretary or Other Department Head (if required)
 7/29/12  Date Approval by Attorney General
 Date Approved by Commissioner of Human Resources
 Date CIO Date CMO Date Secretary of Administration

9/4/12 

Department of Vermont Health Access
Division of Health Care Reform
312 Hurricane Lane, Suite 201
Williston, VT 05495
hcr.vermont.gov
[phone] 802-879-5988

MEMORANDUM

TO: Doug Racine, Secretary of Human Services

FROM: Mark Larson, Commissioner, DVHA

DATE: August 8, 2012

RE: Stone Environmental Contract

DVHA intends to enter into a Sole Source contract with Stone Environmental, Incorporated, for the development of a prototype web-based database application for managing the Blueprint practice and provider data.

The Vermont Blueprint for Health is currently managing the tracking of their practices and providers, as well as the Community Health Team and Support and Services at Home (SASH) data, with a series of Excel spread sheet templates. This requires a significant amount of cleaning and manipulation which takes valuable staff resources and time. In addition, extracting data from the spreadsheets to respond to data requests is very time consuming.

Stone will develop a web accessible database application that will allow practices, project managers and Blueprint staff to easily enter, track, and report on Blueprint practice, provider and community health team data.

Previous efforts by other partners have fallen far short of the Blueprint's requirements, and we are in increasingly urgent need of readily manageable and accessible information for program management, evaluation and transparency.

Thank you for your consideration.

Sincerely,

Craig Jones, MD
Director, Vermont Blueprint for Health
Department of Vermont Health Access (DVHA)
craig.jones@state.vt.us

Mark Larson
Commissioner
Department of Vermont Health Access (DVHA)
mark.larson@state.vt.us

1. **Parties.** This is a contract for personal services between the State of Vermont, Department of Vermont Health Access (hereafter called "State"), and Stone Environmental, Inc. with a principal place of business in Montpelier, VT (hereafter called "Contractor"). The Contractor's form of business organization is a corporation. The Contractor's local address is 535 Stone Cutters Way, Montpelier, Vermont 05602. It is the Contractor's responsibility to contact the Vermont Department of Taxes to determine if, by law, the Contractor is required to have a Vermont Department of Taxes Business Account Number.
2. **Subject Matter.** The subject matter of this contract is personal services generally on the subject of Development of a prototype web-based database application for managing the Blueprint practice and provider data. Detailed services to be provided by the Contractor are described in Attachment A.
3. **Maximum Amount.** In consideration of the services to be performed by the Contractor, the State agrees to pay the Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$14,950.
4. **Contract Term.** The period of Contractor's performance shall begin on September 15, 2012 and end on September 14, 2013.
5. **Prior Approvals.** If approval by the Attorney General's Office or the Secretary of Administration is required, (under current law, bulletins, and interpretations), neither this contract nor any amendment to it is binding until it has been approved by either or both such persons.

Approval by the Attorney General's Office is required.

Approval by the Secretary of Administration is not required.
6. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered, and signed by the duly authorized representative of the State and Contractor.
7. **Cancellation.** This contract may be cancelled by either party by giving written notice at least 30 days in advance.
8. **Attachments.** This contract consists of 24 pages including the following attachments, which are incorporated herein:

Attachment A - Specifications of Work to be Performed

Attachment B - Payment Provisions

Attachment C - Customary State Contract provisions

Attachment D - Modification of Customary Provisions

Attachment E - Business Associate Agreement

Attachment F - Customary Contract Provisions of the Agency of Human Services

The order of precedence of documents shall be as follows:

- 1). This document
- 2). Attachment D (if any)
- 3). Attachment C

ATTACHMENT A

SPECIFICATIONS OF WORK TO BE PERFORMED

General Conditions

The Contractor will develop a web accessible database application that will allow practices, project managers, and State staff to easily enter, track, and report on Blueprint practice, provider and community health team data.

All users will be provided with a secure username and password, and each user will be assigned to a role that allows for a specific level of activity. Upon logging into the application, there will be various options for entering data. The application will contain multiple forms based on sheets currently contained in the "Readiness Database" Excel workbook maintained by the State.

Project tasks (linked to "Contract Deliverables" in Attachment B) are as follows:

Task 1: Project Start-up and initial Project Communication

The Contractor will receive final templates from the State. The State will be responsible for identifying which fields in the templates should be included in the database application.

Task 2: Application Mock-up

The application and forms will be mocked-up using Protoshare, which is an online prototyping application that allows users to rapidly create a mock-up of the application for review without writing any code. The mock-up will include the general layout and navigation of the site and each of the individual data entry forms. Once the mock-up is complete, the State can provide feedback and suggested changes. This process will ensure that State staff is comfortable with the look and feel of the application prior to actual development.

Task 3: Application Development

Includes the setup of the application framework (server set up, database design and implementation of user security), and the creation of user interface (built in Visual Studio 2010). The layout and navigation of the application and the individual forms will be based on the mock-up established in Protoshare. The application will contain the following forms: User Administration Form, Health Service Area Form, Practice Form, Provider Form, Community Health Team Form, and Community Health Team (CHT) Staffing Form. Each of the data entry forms will contain the following functionality: add new record, edit record, delete record

Task 4: Simple Data Extraction Tool

The simple data extraction will contain a form which will allow users to extract data to CSV file format (compatible with Excel) for further filtering. Users will only be allowed to download data that they have permission to view based on their role. The tool will have four options: download practice data, download provider data, download CHT data, and download CHT staffing data.

Task 5: Data Upload

Data contained in the Readiness Database Excel workbook will be used to populate the backend SQL database for the application. Two data uploads have been budgeted. The first data upload

ATTACHMENT B PAYMENT PROVISIONS

The maximum dollar amount payable under this agreement is not intended as any form of a guaranteed amount. The Contractor will be paid for products or services actually performed as specified in Attachment A up to the maximum allowable amount specified in this agreement. State of Vermont payment terms are Net 30 days from date of invoice, payments against this contract will comply with the State's payment terms. The payment schedule for delivered products, or rates for services performed, and any additional reimbursements, are included in this attachment. The following provisions specifying payments are:

1. Contractor invoices shall be submitted no more frequently than monthly, but no later than quarterly, and shall include the deliverables completed during the specified billing period and the total amount invoiced. The State shall pay the Contractor based on lump sum payments for each of the following deliverables.

Contract Deliverable 1: Project Start-up and Initial Project Communication completed by September 1, 2012, with payment of up to \$2,300 upon delivery and acceptance by the State.

Contract Deliverable 2: Application mock-up by September 24, 2012 with payment of up to \$2,000 upon completion and acceptance by the State.

Contract Deliverable 3: Application development by October 14, 2012 with payment of up to \$7,700 upon completion and acceptance by the State.

Contract Deliverable 4: Creation of a simple data extraction tool by October 14, 2012 with payment of up to \$700 upon completion and acceptance by the State.

Contract Deliverable 5: Data upload to completed application by October 21, 2012 with payment of up to \$1,250 upon completion and acceptance by the State.

Contract Deliverable 6: User testing, user acceptance, and application refinement by October 28, 2012 with payment of up to \$1,000 upon completion and acceptance by the State.

2. Failure to meet a high quality standard for the performance deliverable, as reviewed and approved by the State, can result in a 10% deduction from the amount allowed for this performance deliverable.
3. No benefits or insurance will be reimbursed by the State.

ATTACHMENT C
CUSTOMARY PROVISIONS FOR CONTRACTS AND GRANTS

1. **Entire Agreement.** This Agreement, whether in the form of a Contract, State Funded Grant, or Federally Funded Grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.
2. **Applicable Law.** This Agreement will be governed by the laws of the State of Vermont.
3. **Definitions:** For purposes of this Attachment, "Party" shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement.
4. **Appropriations:** If appropriations are insufficient to support this Agreement, the State may cancel on a date agreed to by the parties or upon the expiration or reduction of existing appropriation authority. In the case that this Agreement is funded in whole or in part by federal or other non-State funds, and in the event those funds become unavailable or reduced, the State may suspend or cancel this Agreement immediately, and the State shall have no obligation to fund this Agreement from State revenues.
5. **No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the state withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.
6. **Independence, Liability:** The Party will act in an independent capacity and not as officers or employees of the State.

The Party shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The Party shall notify its insurance company and the State within 10 days of receiving any claim for damages, notice of claims, pre-claims, or service of judgments or claims, for any act or omissions in the performance of this Agreement.

After a final judgment or settlement the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party.

9. **Requirement to Have a Single Audit:** In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and if this Subrecipient expends \$500,000 or more in federal assistance during its fiscal year, the Subrecipient is required to have a single audit conducted in accordance with the Single Audit Act, except when it elects to have a program specific audit.

The Subrecipient may elect to have a program specific audit if it expends funds under only one federal program and the federal program's laws, regulating or grant agreements do not require a financial statement audit of the Party.

A Subrecipient is exempt if the Party expends less than \$500,000 in total federal assistance in one year.

The Subrecipient will complete the Certification of Audit Requirement annually within 45 days after its fiscal year end. If a single audit is required, the sub-recipient will submit a copy of the audit report to the primary pass-through Party and any other pass-through Party that requests it within 9 months. If a single audit is not required, the Subrecipient will submit the Schedule of Federal Expenditures within 45 days. These forms will be mailed to the Subrecipient by the Department of Finance and Management near the end of its fiscal year. These forms are also available on the Finance & Management Web page at:

<http://finance.vermont.gov/forms>

10. **Records Available for Audit:** The Party will maintain all books, documents, payroll papers, accounting records and other evidence pertaining to costs incurred under this agreement and make them available at reasonable times during the period of the Agreement and for three years thereafter for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this Agreement.
11. **Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of Title 21V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement. Party further agrees to include this provision in all subcontracts.
12. **Set Off:** The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.
13. **Taxes Due to the State:**
- a. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services

debarment, declared ineligible or excluded from participation in federal programs or programs supported in whole or in part by federal funds.

- 19. Certification Regarding Use of State Funds:** In the case that Party is an employer and this Agreement is a State Funded Grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.

ATTACHMENT E BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement") is entered into by and between the State of Vermont Agency of Human Services operating by and through its Department of Vermont Health Access ("Covered Entity") and Stone Environmental, Incorporated ("Business Associate") as of September 15, 2012 ("Effective Date"). This Agreement supplements and is made a part of the Contract to which it is an attachment.

Covered Entity and Business Associate enter into this Agreement to comply with standards promulgated under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") including the Standards for the Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164 ("Privacy Rule") and the Security Standards at 45 CFR Parts 160 and 164 ("Security Rule"), as amended by subtitle D of the Health Information Technology for Economic and Clinical Health Act.

The parties agree as follows:

1. **Definitions.** All capitalized terms in this Agreement have the meanings identified in this Agreement, 45 CFR Part 160, or 45 CFR Part 164.

The term "Services" includes all work performed by the Business Associate for or on behalf of Covered Entity that requires the use and/or disclosure of protected health information to perform a business associate function described in 45 CFR 160.103 under the definition of Business Associate.

The term "Individual" includes a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

The term "Breach" means the acquisition, access, use or disclosure of protected health information (PHI) in a manner not permitted under the HIPAA Privacy Rule, 45 CFR part 164, subpart E, which compromises the security or privacy of the PHI. "Compromises the security or privacy of the PHI" means poses a significant risk of financial, reputational or other harm to the individual.

2. **Permitted and Required Uses/Disclosures of PHI.**

2.1 Except as limited in this Agreement, Business Associate may use or disclose PHI to perform Services, as specified in the underlying contract with Covered Entity. Business Associate shall not use or disclose PHI in any manner that would constitute a violation of the Privacy Rule if used or disclosed by Covered Entity in that manner. Business Associate may not use or disclose PHI other than as permitted or required by this Agreement or as Required by Law.

2.2 Business Associate may make PHI available to its employees who need access to

concerning the Breach as it becomes available to it.

- 5.3 When Business Associate determines that an impermissible acquisition, use or disclosure of PHI by a member of its workforce does not pose a significant risk of harm to the affected individuals, it shall document its assessment of risk. Such assessment shall include: 1) the name of the person(s) making the assessment, 2) a brief summary of the facts, and 3) a brief statement of the reasons supporting the determination of low risk of harm. When requested by Covered Entity, Business Associate shall make its risk assessments available to Covered Entity.

6. **Mitigation and Corrective Action.** Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to it of an impermissible use or disclosure of PHI, even if the impermissible use or disclosure does not constitute a Breach. Business Associate shall draft and carry out a plan of corrective action to address any incident of impermissible use or disclosure of PHI. If requested by Covered Entity, Business Associate shall make its mitigation and corrective action plans available to Covered Entity.

7. **Providing Notice of Breaches.**

- 7.1 If Covered Entity determines that an impermissible acquisition, access, use or disclosure of PHI for which one of Business Associate's employees or agents was responsible constitutes a Breach as defined in 45 CFR §164.402, and if requested by Covered Entity, Business Associate shall provide notice to the individuals whose PHI was the subject of the Breach. When requested to provide notice, Business Associate shall consult with Covered Entity about the timeliness, content and method of notice, and shall receive Covered Entity's approval concerning these elements. The cost of notice and related remedies shall be borne by Business Associate.
- 7.2 The notice to affected individuals shall be provided as soon as reasonably possible and in no case later than 60 calendar days after Business Associate reported the Breach to Covered Entity.
- 7.3 The notice to affected individuals shall be written in plain language and shall include, to the extent possible, 1) a brief description of what happened, 2) a description of the types of Unsecured PHI that were involved in the Breach, 3) any steps individuals can take to protect themselves from potential harm resulting from the Breach, 4) a brief description of what the Business associate is doing to investigate the Breach, to mitigate harm to individuals and to protect against further Breaches, and 5) contact procedures for individuals to ask questions or obtain additional information, as set forth in 45 CFR §164.404(c).
- 7.4 Business Associate shall notify individuals of Breaches as specified in 45 CFR §164.404(d) (methods of individual notice). In addition, when a Breach involves more than 500 residents of Vermont, Business associate shall, if requested by Covered Entity, notify prominent media outlets serving Vermont, following the requirements set forth in 45 CFR §164.406.

13. Termination.

- 13.1 This Agreement commences on the Effective Date and shall remain in effect until terminated by Covered Entity or until all of the PHI provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity is destroyed or returned to Covered Entity subject to Section 17.7.
- 13.2 If Business Associate breaches any material term of this Agreement, Covered Entity may either: (a) provide an opportunity for Business Associate to cure the breach and Covered Entity may terminate this Contract without liability or penalty if Business Associate does not cure the breach within the time specified by Covered Entity; or (b) immediately terminate this Contract without liability or penalty if Covered Entity believes that cure is not reasonably possible; or (c) if neither termination nor cure are feasible, Covered Entity shall report the breach to the Secretary. Covered Entity has the right to seek to cure any breach by Business Associate and this right, regardless of whether Covered Entity cures such breach, does not lessen any right or remedy available to Covered Entity at law, in equity, or under this Contract, nor does it lessen Business Associate's responsibility for such breach or its duty to cure such breach.

14. Return/Destruction of PHI.

- 14.1 Business Associate in connection with the expiration or termination of this Contract shall return or destroy all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity pursuant to this Contract that Business Associate still maintains in any form or medium (including electronic) within thirty (30) days after such expiration or termination. Business Associate shall not retain any copies of the PHI. Business Associate shall certify in writing for Covered Entity (1) when all PHI has been returned or destroyed and (2) that Business Associate does not continue to maintain any PHI. Business Associate is to provide this certification during this thirty (30) day period.
- 14.2 Business Associate shall provide to Covered Entity notification of any conditions that Business Associate believes make the return or destruction of PHI infeasible. If Covered Entity agrees that return or destruction is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible for so long as Business Associate maintains such PHI.

15. Penalties and Training. Business Associate understands that: (a) there may be civil or criminal penalties for misuse or misappropriation of PHI and (b) violations of this Agreement may result in notification by Covered Entity to law enforcement officials and regulatory, accreditation, and licensure organizations. If requested by Covered Entity, Business Associate shall participate in training regarding the use, confidentiality, and security of PHI.

- 17.4 In addition to applicable Vermont law, the parties shall rely on applicable federal law (e.g., HIPAA, the Privacy Rule and Security Rule) in construing the meaning and effect of this Agreement.
- 17.5 As between Business Associate and Covered Entity, Covered Entity owns all PHI provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity.
- 17.6 Business Associate shall abide by the terms and conditions of this Agreement with respect to all PHI it receives from Covered Entity or creates or receives on behalf of Covered Entity under this Contract even if some of that information relates to specific services for which Business Associate may not be a "Business Associate" of Covered Entity under the Privacy Rule.
- 17.7 The provisions of this Agreement that by their terms encompass continuing rights or responsibilities shall survive the expiration or termination of this Agreement. For example: (a) the provisions of this Agreement shall continue to apply if Covered Entity determines that it would be infeasible for Business Associate to return or destroy PHI as provided in Section 14.2 and (b) the obligation of Business Associate to provide an accounting of disclosures as set forth in Section 11 survives the expiration or termination of this Agreement with respect to accounting requests, if any, made after such expiration or termination.

(Rev: 1/31/11)

Processing) *System Security Requirements and Review Process.*

4. **Non-discrimination Based on National Origin as evidenced by Limited English Proficiency.** The Contractor agrees to comply with the non-discrimination requirements of Title VI of the Civil Rights Act of 1964, 42 USC Section 2000d, et seq., and with the federal guidelines promulgated pursuant to Executive Order 13166 of 2000, which require that contractors and subcontractors receiving federal funds must assure that persons with limited English proficiency can meaningfully access services. To the extent the Contractor provides assistance to individuals with limited English proficiency through the use of oral or written translation or interpretive services in compliance with this requirement, such individuals cannot be required to pay for such services.
5. **Voter Registration.** When designated by the Secretary of State, the Contractor agrees to become a voter registration agency as defined by 17 V.S.A. §2103 (41), and to comply with the requirements of state and federal law pertaining to such agencies.
6. **Drug Free Workplace Act.** The Contractor will assure a drug-free workplace in accordance with 45 CFR Part 76.

7. **Privacy and Security Standards.**

Protected Health Information: The Contractor shall maintain the privacy and security of all individually identifiable health information acquired by or provided to it as a part of the performance of this contract. The Contractor shall follow federal and state law relating to privacy and security of individually identifiable health information as applicable, including the Health Insurance Portability and Accountability Act (HIPAA) and its federal regulations.

Substance Abuse Treatment Information: The confidentiality of any alcohol and drug abuse treatment information acquired by or provided to the Contractor or subcontractor shall be maintained in compliance with any applicable state or federal laws or regulations and specifically set out in 42 CFR Part 2.

Other Confidential Consumer Information: The Contractor agrees to comply with the requirements of AHS Rule No. 08-048 concerning access to information. The Contractor agrees to comply with any applicable Vermont State Statute, including but not limited to 12 VSA §1612 and any applicable Board of Health confidentiality regulations. The Contractor shall ensure that all of its employees and subcontractors performing services under this agreement understand the sensitive nature of the information that they may have access to and sign an affirmation of understanding regarding the information's confidential and non-public nature.

Social Security numbers: The Contractor agrees to comply with all applicable Vermont State Statutes to assure protection and security of personal information, including protection from identity theft as outlined in Title 9, Vermont Statutes Annotated, Ch. 62.

8. **Abuse Registry.** The Contractor agrees not to employ any individual, use any volunteer, or otherwise provide reimbursement to any individual in the performance of services connected with this agreement, who provides care, custody, treatment, transportation, or supervision to children or vulnerable adults if there is a substantiation of abuse or neglect or exploitation against that individual. The Contractor will check the Adult Abuse Registry in the Department of Disabilities, Aging and Independent Living. Unless the Contractor holds a valid child care

equipment - including desktops, notebooks, and other portable devices - used in connection with this agreement. The Contractor will also assure that any media or mechanism used to store or transfer data to or from the State includes industry standard security mechanisms such as continually up-to-date malware protection and encryption. The Contractor will make every reasonable effort to ensure media or data files transferred to the State are virus and spyware free. At the conclusion of this agreement and after successful delivery of the data to the State, the Contractor shall securely delete data (including archival backups) from the Contractor's equipment that contains individually identifiable records, in accordance with standards adopted by the Agency of Human Services.

12. **Computing and Communication:** The Contractor shall select, in consultation with the Agency of Human Services' Information Technology unit, one of the approved methods for secure access to the State's systems and data, if required. Approved methods are based on the type of work performed by the Contractor as part of this agreement. Options include, but are not limited to:

1. Contractor's provision of certified computing equipment, peripherals and mobile devices, on a separate Contractor's network with separate internet access. The Agency of Human Services' accounts may or may not be provided.
2. State supplied and managed equipment and accounts to access state applications and data, including State issued active directory accounts and application specific accounts, which follow the National Institutes of Standards and Technology (NIST) security and the Health Insurance Portability & Accountability Act (HIPAA) standards.

The State will not supply e-mail accounts to the Contractor.

13. **Lobbying.** No federal funds under this agreement may be used to influence or attempt to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendments other than federal appropriated funds.
14. **Non-discrimination.** The Contractor will prohibit discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under Title IX of the Education Amendments of 1972, or on the basis of race, color or national origin under Title VI of the Civil Rights Act of 1964. No person shall on the grounds of sex (including, in the case of a woman, on the grounds that the woman is pregnant) or on the grounds of religion, be excluded from participation in, be denied the benefits of, or be subjected to discrimination, to include sexual harassment, under any program or activity supported by state and/or federal funds.

The Contractor will also not refuse, withhold from or deny to any person the benefit of services, facilities, goods, privileges, advantages, or benefits of public accommodation on the basis of disability, race, creed, color, national origin, marital status, sex, sexual orientation or gender identity under Title 9 V.S.A. Chapter 139.

15. **Environmental Tobacco Smoke.** Public Law 103-227, also known as the Pro-children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the